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Serial No.: 10/036,107

### REMARKS

Applicants thank the Examiner for the careful consideration given this case. This response addresses those issues raised in Office Action dated April 5, 2005. Claims 40, 43-53, 56-66, 74, 83, 95, 98, 100, 107, 110, and 112 are pending. Claims 69-73 have been cancelled and incorporated into Claim 66. Claims 77-82 have been cancelled and incorporated into Claim 74. Claims 86-94 have been cancelled and incorporated into Claim 83. Claim 96 has been cancelled and incorporated into Claim 95. Claim 99 has been cancelled and incorporated into Claim 98. Claims 101 and 103-106 have been cancelled and incorporated into Claim 100. Claim 108 has been cancelled and incorporated into Claim 107. Claim 111 has been cancelled and incorporated into 110. Claims 113 and 114-118 have been cancelled and incorporated into Claim 112. Claims 98, 100, 110, and 112 have been rewritten in independent form. Specific claim language in Claims 40, 53, 66, 74, 83, 95, and 107 has been amended to present the claims in better form for consideration on appeal. The amendments introduce no new matter. In view of the following remarks, reconsideration of the claims is respectfully requested.

#### *Finality of the present Office Action*

Initially, Applicants note that the finality of the present Office Action is inappropriate. The Examiner has cited MPEP § 706.07(a) as support for making the present Office Action final. In relevant part MPEP § 706.07(a) reads

Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17 (p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

[...]

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A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. See MPEP § 904 *et seq.* For example, one would reasonably expect that a rejection under 35 U.S.C. 112 for the reason of incompleteness would be replied to by an amendment supplying the omitted element.

[...]

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Emphasis added.

Applicants submit that the amendment presented in the response filed on September 21, 2004 did not necessitate new grounds for rejection. The only amendments submitted in that response was a replacement of the phrase "the classic rules of cinematic story telling" with "dramatic story telling" to address a rejection by the Examiner under 35 U.S.C. § 112, ¶1. The Examiner had, in fact, indicated that the pending claims were allowable, but for that rejection under § 112. As MPEP § 706.07(a) instructs, any action on the merits should not be made final if it includes newly-cited art that was not necessitated by the Applicants' amendments. MPEP § 706.07(a) specifically notes that amendments made in response to rejections under § 112 should not prompt a Final Office Action. It is respectfully submitted that the slight change in claim language did not substantively change the scope of the pending claims and could not have necessitated a new search and would not have caused a new rejection of the claims.

The Examiner has employed new art in generating new grounds for rejection in the present Office Action. While Applicants feel that the newly-cited art is not relevant to the pending claims, Applicants' amendments of September 21,

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2004 could not have prompted the Examiner to newly apply those references. Applicants are entitled to respond fully to the Examiner's rejections based upon newly-cited art and request that the finality of the present Office Action be withdrawn.

**Claim objections**

The Examiner objects to Claims 103 and 115 due to improper dependency. Applicants have cancelled Claims 103 and 115 rendering the present objection moot.

**Rejections under 35 U.S.C. § 102**

The Examiner rejects 40, 43-46, 49, 51-53, 56-59, 62, 64-66, 69-70, 72-74, 77-78, 80-82, 95-96, 100-101, 103, 107-108, 111-113, and 115 under 35 U.S.C. § 102(e) as being anticipated by Lotecka (U.S. Patent No. 6,296,487; "the '487 patent" or "Lotecka"). The Examiner asserts that Lotecka provides dramatic character driven story based simulation content that has dramatic goals that are based on dramatic story telling. Applicants strongly disagree.

Each of the presently-pending claims recites "dramatic character driven story based simulation content" that includes "dramatic goals [that] are based on dramatic story telling." The Examiner cites to the Abstract of Lotecka as teaching "dramatic character driven story based simulation content" that includes "dramatic goals [that] are based on dramatic story telling." The abstract of Lotecka, indeed the entire '487 patent, does not use the word "story," nor does it teach any

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concepts that could reasonably be construed to recite "dramatic character driven story based simulation content" that contains dramatic goals. Lotecka discloses a method of teaching communication skills where students use a computer to select sentences to achieve a goal. Col. 2, lines 28-38. Examples of the goals include "Negotiate with the person who is currently using the computer so you can use it" and "Get a date tonight with the beautiful high school cheerleader." Col. 3, lines 40-44; col. 4, lines 54-57. Those goals are not dramatic goals and they are not based on dramatic story telling, as disclosed and claimed in the presently-pending claims.

A typical exchange that occurs in the invention of the '487 patent may be found at Col. 5, lines 20-33.

In order to achieve his goal of getting the date, the surfer needs to get the cheerleader to say, "Sure." If the surfer states, "You're going out with me tonight, and that's final," there is a 5% chance that the cheerleader will say, "Sure." If she does, then a congratulatory message of, "Goal achieved!" will be displayed on the screen. However, it is much more likely that she will tell him to "Get lost!" (60% probability) if the surfer states, "You're going out with me tonight, and that's final." If she tells him to get lost, the student will be required to hit back-button 8 to try again. For the greatest probability of getting the date (80% probability of success), the surfer should ask politely, "Would you like to have dinner and see a movie with me tonight?"

That exchange (or others supported by the '487 patent) cannot be construed to contain a story or be character driven. There is simply no disclosure of character driven story based simulation content in Lotecka. It is respectfully submitted that Lotecka does not address the same topic as the present invention, let alone anticipate the presently-pending claims.

As is clear, the presently-pending claims are distinguishable over Lotecka in that it does not contain each and every claim element. A claim is anticipated by a prior art reference if, and only if, each and every claim element may be found, either expressly or inherently described, in a single prior art

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reference. MPEP § 2131.01. It is respectfully submitted that the cited reference does not satisfy this requirement. Accordingly, the rejections under § 102 are inappropriate. Reconsideration and withdrawal of these rejections are respectfully requested.

The Examiner rejects Claims 43, 56, 69, and 77 under 35 U.S.C. § 102(e) as being anticipated by Lotecka. Claims 69 and 77 have been incorporated into Claims 66 and 74, respectively. Each of those claims recites a method or apparatus that includes "multimedia technology for creating a realistic environment." The Examiner cites to Col. 3, lines 27-34 of the '487 patent for support for "multimedia technology for creating a realistic environment." However, Lotecka does not teach creating a realistic environment. Instead, Lotecka teaches that

The student makes entries via a computer via a keyboard and mouse and a monitor displays his entries and programmed responses to his entries (keyboard and mouse are also manufactured by Packard Bell).

All responses are shown on a computer screen, which is in no sense a "realistic environment." It is respectfully submitted that the use of Lotecka to reject the pending claims is entirely inappropriate. Reconsideration and withdrawal of the present rejection are respectfully requested.

The Examiner rejects Claims 46, 49, 59, 62, 96, 103, 108, and 115 under 35 U.S.C. §102(e) as being anticipated by Lotecka. Specifically, the Examiner asserts that Lotecka discloses "altering the simulation content in response to the participants' responses." It is respectfully submitted that Lotecka does not alter the simulation content at all and for that reason cannot alter the simulation content in response to the one or more participants' responses. Lotecka discloses only choosing among pre-programmed content in a training method. For example, the invention

of Lotecka provides "only one response for each communication. The response is a response of the type a "good manners" advisor would recommend. It is very easy to program and requires very little effort on the part of the programmer." Col. 3., lines 19-24. See also Col. 5, lines 9-33 for examples of how the content is pre-determined and not altered. Thus, Lotecka does not teach each and every element of the presently-pending claims. Reconsideration and withdrawal of the present rejection is respectfully requested.

The Examiner rejects Claims 51, 64, 72, 80, and 111 as being anticipated by Lotecka. Claims 51, 66, 74, 83, 98, 110 disclose "delivering immersive audio." At Col. 6, lines 28-30, Lotecka discloses adding "audio features." There is no mention of immersive audio in Lotecka, as presently claimed. Thus, Lotecka does not teach each and every element of the presently-pending claims and cannot anticipate those claims. Reconsideration and withdrawal of the present rejection are respectfully requested.

The Examiner rejects Claim 82 (which has been incorporated into Claim 74) as anticipated by Lotecka because the Examiner considers the invention disclosed in Lotecka to be a gaming simulation. As is clear from the entire disclosure of Lotecka and as is specified by the title of the '487 patent ("Method and System for Facilitating, Communicating, and Behavior Skills Training."), the invention set forth in Lotecka is a training simulation and not a gaming simulation. Accordingly, Lotecka does not teach the present invention as set forth in present Claim 74 and does not anticipate the presently-pending claims. Reconsideration and withdrawal of the present rejection are respectfully requested.

The Examiner rejects Claims 40, 43-46, 49-53, 56-59, 62-63, 66, 69-74, 77-82, 95-96, 98-99, 100, 103, 107-108, and 110-115 under 35 U.S.C. § 102(e) as

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being anticipated by Siddle (US 2003/0031986; "Siddle"). The Examiner asserts that Siddle discloses providing feedback to participants based upon dramatic goals of the simulation "(i.e. enhance simulation effect)." The Examiner further asserts that Siddle discloses providing dramatic character driven story based simulation content, citing to paragraphs 21, 22, and 31 as support for that proposition. (Page 5 of April 4, 2005 Office Action.) Applicants respectfully submit that the Examiner has misconstrued the present invention and has accordingly misapplied Siddle in rejection of the presently-pending claims.

The Examiner cites to paragraphs 21, 22, and 31 of Siddle as teaching "dramatic goals of a simulation, wherein the dramatic goals are based on dramatic story telling" and "providing dramatic character driven story based simulation content." It is unclear to the Applicants which specific portions of those paragraphs to which the Examiner is referring. Applicants provide the following comments on portions of paragraphs 21 and 22. Paragraphs 21 and 22 read in part:

The training simulation 30 is designed to train the trainee in using a firearm. The simulation 30 may train the trainee in developing marksmanship skills. The simulation 30 may also be designed to train the trainee in developing judgmental skills, including developing the trainee's perception of a situation, and recognition and timing when employing the firearm. The training simulation 30 creates a stressful environment for the trainee where the trainee must judge where, when, and how to employ the firearm. The training simulations 30 are also typically tailored for a particular type of mission and/or duty to which the trainee is assigned. For instance, the training simulation may include scenarios depicting real life situations in which trainees may find themselves while in the line of duty, for instance, domestic violence or robbery/burglary, narcotics, gangs, etc. Paragraph 21.

The training simulations 30 may be created through a film production. Actors are used to act out the various roles in a scripted scenario based on previous real life encounter. Paragraph 22.

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It is respectfully submitted that neither those cited passages, nor the Siddle reference as a whole, teaches a dramatic character driven story based simulation content as presently claimed. Siddle does not discuss a story, nor does it discuss the role of characters in driving that story. A mere reference to various kinds of scenarios does not teach the use of "dramatic character driven story based simulation content." Similarly, the participation of actors in a film to be used in the simulation does not provide any teaching as to what kind of, if any, story is being filmed. Indeed, Siddle discusses "decision tree" models which directly contrast with the presently-claimed "character driven story based simulation content." See paragraph 23, lines 3-6. Furthermore, the expressed goal of the simulations of Siddle is to train the trainee in using a firearm. See Abstract. It is respectfully submitted that such a goal is not a dramatic goal, as claimed in the present application.

Without teaching dramatic character driven story based simulation content or dramatic goals of a simulation – elements that are found in each of the presently pending claims – Siddle cannot anticipate the present claims. Reconsideration and withdrawal of the present rejection is respectfully requested.

In rejecting claims 46, 59, 103, and 115, the Examiner asserts that Siddle discloses where the one or more synthetic characters "(i.e. trainee)" are used to alter the simulation content. (Page 6 of April 5, 2005 Office Action.) Claims 103 and 115 have been cancelled and incorporated into Claims 100 and 112, respectively. It is respectfully submitted that the trainee is a human being and not a synthetic character and that the use of Siddle as the basis of that rejection is entirely inappropriate. Reconsideration and withdrawal of the present rejection is respectfully requested.



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In rejecting Claims 50, 63, 71, 79, 98, and 110, the Examiner asserts that Siddle discloses that the simulation content depicts military scenarios (*i.e.* firearms training, mission, and/or duty to which a trainee is assigned). (Page 6 of the Office Action dated April 5, 2005.) Claims 71 and 79 have been cancelled and incorporated into Claims 66 and 74, respectively. Applicants respectfully submit that firearms training, while a task in which military personnel may participate, is not a military scenario in and of itself. Accordingly, Siddle does not teach each and every element of the presently-pending claims and cannot anticipate those claims. Reconsideration and withdrawal of the present rejection are respectfully requested.

The Examiner rejects Claims 51, 72, 80, 99, and 111 as being anticipated by Siddle. Claims 99 and 111 have been cancelled and incorporated into Claims 98 and 110, respectively. The Examiner asserts that Siddle discloses the step of "delivering immersive audio" to the one or more participants. Siddle states that "This altered presentation may also include providing different audio and/or visual presentations and/or scenarios to the trainee." (Paragraph 31, lines 14-16.) The phrase "different audio" cannot be reasonably construed to mean "immersive audio" as recited in the presently-pending claims. Thus, Siddle does not teach each and every element of the presently-pending claims and cannot anticipate those claims. Reconsideration and withdrawal of the present rejection are respectfully requested.

In rejecting Claims 45, 58, 102, and 114, the Examiner asserts that Siddle discloses wherein feedback is provided by one or more of the synthetic characters (*e.g.*, trainee response). (Page 7 of the Office Action dated April 5, 2005.) Claims 102 and 114 have been cancelled and incorporated into Claims 100 and 112, respectively. It is respectfully submitted that the trainee is not a synthetic

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character. Therefore, Siddle does not teach that element as presently claimed. Reconsideration and withdrawal of the present rejection are respectfully requested.

**Rejection under 35 U.S.C. § 103**

The Examiner rejects Claims 47-48, 60-61, 83, 86-94, 104-106, and 116-118 under 35 U.S.C. § 103(a) as unpatentable as obvious over Lotecka in view of Cook (U.S. Patent No. 5,727,950; "Cook" or "the '950 patent"). As argued above, Lotecka does not disclose each and every element of the present claims – specifically, "dramatic character driven story based simulation content" or "dramatic goals." The Examiner does not assert that Cook teaches "dramatic character driven story based simulation content" or "dramatic goals" and Applicants concur. Cook discloses systems and methods for interactive, adaptive, and individualized computer-assisted instruction. As argued previously in the prosecution of the present application, the dramatic goals of the present invention are interpreted in light of the storyline and within the context of the simulated environment in clear contrast to the check-list like objectives of Cook. Accordingly, Cook does not cure the deficiencies of Lotecka. Cook and Lotecka, taken singly or in combination, do not teach or fairly suggest each and every element of the presently-claimed invention. As the Examiner is aware, to establish a *prima facie* case of obviousness of a claimed invention, all of the claim elements must be taught or suggested in the cited references. MPEP § 2143.01. It is submitted that the cited references do not satisfy this requirement in the claims as presently amended. Reconsideration and withdrawal of this rejection are respectfully requested.

Furthermore, in rejecting Claim 83, the Examiner asserts that Cook teaches "an artificial intelligence engine for analyzing input into the one or more

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participant workstations and altering the simulation content in response to the input based upon dramatic goals of the simulation, wherein said artificial intelligence engine comprises an engine for altering the simulation content based upon dramatic story telling." Specifically, the Examiner cites to the following passage from Cook, "Thus, one meta-response can include opportunities for student input with the next display object being chosen in response to that input." It is unclear to Applicants how the Examiner is arguing that the cited passage from Cook relates to an artificial intelligence engine. It is respectfully submitted that Cook does not discuss artificial intelligence engines in that passage or elsewhere in the disclosure. It is further submitted that neither Cook nor Lotecka taken singly or in combination teach or fairly suggest "an artificial intelligence engine for analyzing input into the one or more participant workstations and altering the simulation content in response to the input based upon dramatic goals of the simulation, wherein said artificial intelligence engine comprises an engine for altering the simulation content based upon dramatic story telling." As the Examiner is aware, to establish a *prima facie* case of obviousness of a claimed invention, all of the claim elements must be taught or suggested in the cited references. MPEP § 2143.01. It is submitted that the cited references do not satisfy this requirement in the claims as presently amended. Reconsideration and withdrawal of the present rejection are respectfully requested.

In rejecting Claim 87 (which has been incorporated into Claim 83), the Examiner asserts that the invention disclosed in Lotecka is a gaming simulation. As is clear from the entire disclosure of Lotecka and as is specified by the title of the patent ("Method and System for Facilitating, Communicating, and Behavior Skills Training"), the invention set forth in Lotecka is a training simulation and not a gaming simulation. Accordingly, Lotecka does not teach the present invention as

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set forth now in present Claim 83 and does not anticipate the presently-pending claims. Reconsideration and withdrawal of the present rejection are respectfully requested.

In rejecting Claim 89 (which has been incorporated into Claim 83), the Examiner states that Cook teaches simulations where "one or more synthetic characters are represented by digital video." The Examiner cites to Cook at Col. 6, lines 13-20 for that proposition, which reads:

In a preferred embodiment of this invention the voices, gestures and motions of the personae are derived from the chosen behaviors, student personae preferences, and the history of recent behavior by selection from tables containing a rich variety of alternative sound and visual display objects. All elements of the on-screen agent display are then synthesized in an integrated display script calling for graphics, animation, video, or sound as appropriate. These scripts are then bundled into applets, run-time program fragments that represent a complete element of performance. This display is highly configurable by the student, the teacher, or the system administrator.

It is unclear to Applicants how the Examiner is arguing that the cited passage describes simulations where "one or more synthetic characters are represented by digital video." There is no discussion of digital video in that passage from Cook. It is further submitted that neither Cook nor Lotecka taken singly or in combination teach or fairly suggest simulations where "one or more synthetic characters are represented by digital video." As the Examiner is aware, to establish a *prima facie* case of obviousness of a claimed invention, all of the claim elements must be taught or suggested in the cited references. MPEP § 2143.01. It is submitted that the cited references do not satisfy this requirement in the claims as presently amended. Reconsideration and withdrawal of the present rejection are respectfully requested.

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The Examiner rejects Claim 93 (which has been incorporated into Claim 83), asserting that Lotecka discloses the step of delivering immersive audio to the one or more participant workstations. For the reasons detailed hereinabove, Applicants respectfully disagree with the Examiner. Reconsideration and withdrawal of the present rejection are respectfully requested.

The Examiner rejects Claims 106 and 118 (which have been incorporated into Claims 100 and 112, respectively), asserting that Lotecka discloses the step of "delivery the simulation content comprises using multimedia technology for creating a realistic environment." For the reasons detailed hereinabove, Applicants respectfully disagree with the Examiner. Reconsideration and withdrawal of the present rejection are respectfully requested.

The Examiner rejects Claims 47-48, 60-62, 83, 86-94, 104-106, and 116-118 under 35 U.S.C. 103(a) as being unpatentable over Siddle in view of Cook. As argued above, Siddle does not disclose each and every element of the present claims – specifically, "dramatic character driven story based simulation content" or "dramatic goals." As also detailed hereinabove, Applicants hold the position that Cook does not cure those deficiencies. Reconsideration and withdrawal of this rejection are respectfully requested.

With regards to the Examiner's rejection of Claim 83, the Examiner asserts that Cook teaches "an artificial intelligence engine for analyzing input into the one or more participant workstations and altering the simulation content in response to the input based upon dramatic goals of the simulation, wherein said artificial intelligence engine comprises an engine for altering the simulation content based upon dramatic story telling." As detailed hereinabove, Applicants

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respectfully disagree with the Examiner. Reconsideration and withdrawal of the present rejection are respectfully requested.

In rejecting Claim 89 (which has been incorporated into Claim 83), the Examiner states that Cook teaches simulations where "one or more synthetic characters are represented by digital video." As detailed hereinabove, Applicants respectfully disagree with the Examiner. Reconsideration and withdrawal of the present rejection are respectfully requested.

The Examiner rejects Claim 93 (which has been incorporated into Claim 83) asserting that Siddle discloses the step of delivering immersive audio to the one or more participant workstations. For reasons detailed hereinabove, Applicants respectfully disagree with the Examiner. Reconsideration and withdrawal of the present rejection are respectfully requested.

The Examiner rejects Claims 50, 63, 71, 79, and 110 under 35 U.S.C. § 103(a) as being unpatentable over Lotecka in view of Siddle. As has been clearly demonstrated above, neither Lotecka nor Siddle teaches a dramatic character driven story based simulation content or dramatic goals. Accordingly, the combination of those two references also does not teach or suggest the elements of the presently-pending claims and obviousness rejections based on the combination of Lotecka and Siddle is inappropriate. Reconsideration and withdrawal of the present rejection are respectfully requested.

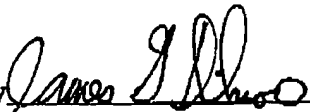
Applicants note that the Examiner has made Sinclair et al. of record, but did not rely upon it in rejecting any presently-pending claims.

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In view of the remarks presented herein, it is respectfully submitted that the present application is in condition for final allowance and notice to such effect is requested. If the Examiner believes that additional issues need to be resolved before this application can be passed to issue, the undersigned invites the Examiner to contact him at the telephone number provided below.

Respectfully submitted,

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